

## **ARTICLE 10.00 SPECIAL DISTRICT REGULATIONS**

### **10.01      General Purposes of Special Districts**

It is the intent of the City to preserve and protect certain areas of the community in order to promote the public health, safety and general welfare of the citizens of the City of Gallatin. Three (3) districts are proposed, Historic (H-1) District, Floodplain District, and Airport Overlay (AO) Zoning District.

### **10.02      Intent and Purpose of H-1 Historic District**

It is the intent of this district to preserve the historic sites and structures of the City of Gallatin. The requirements of the district are designed to protect and preserve historic and/or architectural value; create an aesthetic atmosphere; strengthen the economy; protect and enhance the city's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided; and promote the education and patriotic heritage of the present and future citizens of the community. In order to achieve the intent of the H-1 Historic District, as shown on the official Zoning Map of Gallatin, Tennessee, the following regulations shall apply:

#### **10.02.010      Uses and Structures**

Any use permitted by the existing zoning classification is also permitted by the H-1 Historic District.

#### **10.02.020      Application of the H-1 Historic District**

The H-1 District classification may be superimposed in addition to the existing zoning classification where the following criteria shall be determined to exist by the Historic District Commission.

- A. The quality of significance in American History, architecture, archeology, and culture is present in districts, sites, buildings, and structures that possess integrity of location, design, setting, materials, workmanship, feeling and association, and:
- B. that are associated with events that have made a significant contribution to the broad patterns of our history; or
  - 1. that are associated with the lives of persons significant in our past; or
  - 2. that embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

3. that have yielded, or may be likely to yield, archaeological information.

#### 10.02.030 Administration

No building permit for construction, major alteration or rehabilitation, moving, or demolition to be carried on within the H-1 District shall be issued by the Building Inspector until it is submitted to and receives approval in writing by the Historical District Commission.

- A. Administration shall be by the office of the Zoning Administrator and the Historical District Commission and all items regulated within the H-1 District shall be submitted to the Historical District Commission (through the office of the Zoning Administrator) for its review.
- B. Building Permit Required - All alterations, additions, or new construction which, previous to the establishment of this H-1 District, required that application be made for a Building Permit, and approval obtained before the work on such alterations, additions, or new construction can begin. In addition it shall be required that application be made in the same manner for any work, including but not limited to, alterations, additions, demolition, removal or new construction which alters or contributes to the exterior appearance of existing structures.
- C. Within 90 days of the passage of this Ordinance, the Historic District Commission shall prepare and submit to the Gallatin Mayor and Aldermen design review guidelines which shall be used by the Historical District Commission in the consideration of any application for certificate of appropriateness applied for under this Ordinance. No application may be considered by the Historic District Commission until such time as said guidelines have received approval of the Mayor and Aldermen.
- D. Building Permit Procedures
  1. Applications for building permits within the H-1 District shall be made to the Codes and Planning Department Offices and all such applications shall be referred directly to the Historic District Commission. The Historic District Commission shall have broad powers to request detailed construction plans and related data pertinent to a thorough review of any application.
  2. Upon receiving an application for a Building Permit the Historic District Commission shall, within thirty (30) days following the availability of sufficient data, issue to the Codes and Planning Departments a letter stating its approval with or without attached conditions or disapproval with the grounds for disapproval stated in writing.
  3. The office of the Building Inspector shall additionally review applications for Building Permits (which have received written approval from the Historic District Commission) in the same manner review is made of Building Permit applications outside of the H-1 District, and final issuance or rejection shall additionally be based upon the adopted Building Codes of the City of Gallatin. The fee charged for Building Permits within the

H-1 District shall conform to existing fee schedules for Building Permits in any other zoning district within the City of Gallatin.

4. Inspection of building improvements shall be the responsibility of the Codes and Planning Departments. The final inspection will be the joint responsibility of the Codes and Planning Departments and a designee of the Historic District Commission.

10.02.040      Historic District Commission

- A. Creation and Appointment - In accordance with Tennessee Code Annotated 13-7-401, a Historic District Commission is hereby establish. The Mayor and Aldermen shall create a five (5) member Historic District Commission which shall consist of a representative of a local patriotic or historical organization; an architect, if available; a member of the Planning Commission, at the time of his appointment; and the remaining members shall be appointed from the community in general. Historic District Commission members shall be appointed by the Mayor, subject to confirmation by the Aldermen. Appointments to membership on the Historic District Commission shall be arranged so that the term of one member shall expire each year and his successor shall be appointed in the like manner in terms of five (5) years. All members shall serve without compensation. The members of the Commission shall elect a Chairman from among themselves to preside over meetings.
- B. Procedure - Meetings of the Historic District Commission shall be held at the call of the Chairman or by the majority of the membership. All meetings of the Commission shall be open to the public. The Commission shall give notice of the place, date, and time of any public hearings which they hold under the provisions of this Ordinance, by publication in an official newspaper or a newspaper of general circulation at least seven (7) days immediately prior thereto. At least three (3) members of the Commission shall constitute a quorum for the transaction of its business. The concurring vote of a majority of the Commission shall constitute final action of the Commission on any matter before it. The Commission shall keep minutes of its procedures showing the vote of each member upon each question; or if absent or failing to vote, indicating such fact.
- C. Powers and Duties - The Historic District Commission shall have the following powers:
  1. To request detailed construction plans and related data pertinent to thorough review of any proposal before the Commission.
  2. The Historic District Commission shall within thirty (30) days following availability of sufficient data, direct the granting of a building permit with or without conditions or direct the refusal of a building permit providing the grounds for refusal are stated in writing.
  3. Upon review of the application for a building permit, the Historic District Commission shall give prime consideration to:
    - (a) historic and/or architectural value of present structure;

- (b) the relationship of exterior architectural features of such structures to the rest of the structures of the surrounding area;
- (c) the general compatibility of exterior design, arrangement, texture and materials proposed to be used;
- (d) to any other factor, including aesthetic, which is deemed pertinent.

4. Additional powers and duties:

- (a) It shall be the duty of the Historic District Commission to make the following determination with respect to the historic district;

Appropriateness of altering or demolishing any building or structure within the Historic District. The Commission may require interior and exterior photographs, architectural measured drawings of the exterior, or other notations of architectural features to be used for historical documentation as a condition of any permission to demolish a building or structure, such photographs, drawings, etc. shall be at the expense of the applicant.

Appropriateness of the exterior architectural features including signs and other exterior fixtures of any new buildings and structures to be constructed within the Historic District.

Appropriateness of exterior design of any new extension of any existing building or structure within the historic district.

Appropriateness of front yards, side yards, rear yards, off-street parking spaces, location of entrance drives into the property, sidewalks along the public right-of-way, which might affect the character of any building or structure within the historic district.

The general compatibility of exterior design, arrangement, texture, and material of the building or other structure in question and the relation of such factors to similar features of buildings in the immediate surroundings. However, the Historic District Commission shall not consider interior arrangement or design, nor shall it make any requirements except for the purpose of preventing extensions incongruous to the historic aspects of the surroundings.

- (b) Right of Entry Upon Land - The Commission, its members and employees, in the performance of its work, may enter upon any land within its jurisdiction and make examinations and surveys and place or remove public notices as required by this Ordinance, but there shall be no right of entry into any building without the consent of the owner.

- (c) Liability of Historic District Commission Members - Any Historic District Commission member acting within the powers granted by the Ordinance is relieved from all personal liability for any damage and shall be held harmless by the city government. Any suit brought against any member of the Commission shall be defended by a legal representative furnished by the city government until the termination of the procedure.
- (d) Jurisdiction - The Historic District Commission shall have exclusive jurisdiction relating to historic matters. Anyone who may be aggrieved by any final order or judgement of the Commission may have said order or judgment reviewed by the courts by the procedures of statutory certiorari as provided for in the Tennessee Code Annotated, Sections 27-9-102 and 27-4-103.
- (e) Conflict of Interest - Any member of the Historic District Commission who shall have a direct or indirect interest in any property which is the subject matter of, or affected by, a decision of said Commission shall be disqualified from participation in the discussion, decision, or proceedings of the Historic District Commission in connection therewith.
- (f) to recommend the creation of historic districts or zones to the City Council (Also see TCA 13-7-405)
- (g) to Issue Certificates of Appropriateness per TCA Section 13-7-406.
- (h) to review requests to construct alter, repair, rehabilitate, relocate or demolish any building structure or other improvement within an established historic district or zone prior to action to deny or approve a certificate of appropriateness.

#### 10.02.050      Maintenance and Repair of Improvements

Every person in charge of an improvement in a historic district shall keep in good repair all of the exterior portions of such improvements and all interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portions of such improvement to deteriorate, decay, or become damaged or otherwise to fall into a state of disrepair.

#### 10.02.060      Remedying of Dangerous Conditions

In any case where a city enforcement agency shall order or direct the construction, removal, alteration, or demolition of any improvement in a historic district for the purpose of remedying conditions determined to be dangerous to life, health, or property, nothing contained in this chapter shall be construed as making it unlawful for any person, without prior issuance of a letter of approval pursuant to this Ordinance, to comply with such order of direction. However, the enforcement agency shall give the Commission notice of any proposed order or direction which affects or may affect the exterior appearance of any structure, or site, on or in the environs of a historic district. The Commission shall be afforded adequate opportunity to review and provide

written comments upon any action proposed by an enforcement agency within a historic district prior to the initiation of any said action.

10.02.070      Injunctive Powers and Penalties

- A. Where it appears that the owner or person in charge of an improvement on a landmark site or preservation site threatens or is about to do or is doing any work in violation of the Ordinance, the City Attorney for the City of Gallatin shall, when directed by the Mayor or Aldermen, forthwith apply to an appropriate court for an injunction against such violation of this Ordinance. If an order of the court enjoining or restraining such violation does not receive immediate compliance, the City Attorney shall forthwith apply to an appropriate court to punish said violation pursuant to law.
- B. A violation of this Ordinance is punishable by a fine of not less than two dollars (\$2.00) and not exceeding fifty dollars (\$50.00) or by imprisonment not exceeding ninety (90) days, or by both such fines and imprisonment. Every day of violation may be held to constitute a separate offense.

(Ordinance O1701-14, 3/21/17)

### **10.03 Statutory Authorization, Findings of Fact, Purpose and Objectives Related to the Municipal Floodplain Ordinance**

#### **10.03.010      Statutory Authorization, Findings of Fact, Purpose and Objectives**

The Legislature of the State of Tennessee has in Sections 13-7-201 through 13-7-210; Tennessee Code Annotated, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Gallatin Board of Mayor and Aldermen, ordain as follows:

#### **10.03.020      Findings of Fact**

- A. The Gallatin Board of Mayor and Aldermen, wishes to maintain eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3 of the Federal Insurance Administration Regulations found at 44 CFR Ch. 1 (10-1-04 Edition).
- B. Areas of Gallatin are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- C. These flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

#### **10.03.030      Statement of Purpose**

It is the purpose of this Ordinance to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. This Ordinance is designed to:

- A. Restrict or prohibit uses which are vulnerable to water or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;
- B. Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers involved in the accommodation floodwaters;
- D. Control filling, grading, dredging and other development which may increase flood damage or erosion, and;
- E. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

#### **10.03.040      Objectives**

The objectives of this Ordinance are:

- A. To protect human life, health and property;
- B. To minimize expenditure of public funds for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodable areas;
- F. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize blight in flood areas;
- G. To ensure that potential homebuyers are notified that property is in a floodable area; and
- H. To maintain eligibility for participation in the National Flood Insurance Program.

#### 10.03.041 Definitions

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application given its stated purpose and objectives.

*"Accessory Structure"* shall represent a subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following:

1. Accessory structures shall not be used for human habitation.
2. Accessory structures shall be designed to have low flood damage potential.
3. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
4. Accessory structures shall be firmly anchored to prevent flotation that may result in damage to other structures.
5. Service facilities such as electrical and heating equipment shall be elevated or flood-proofed.

*"Act"* means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. 4001-4128.

*"Addition (to an existing building)"* means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by an independent perimeter load-bearing wall, shall be considered "New Construction".

*"Appeal"* means a request for a review of the local enforcement officer's interpretation of any provision of this Ordinance or a request for a variance.

*"Area of Shallow Flooding"* means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. (Such flooding is characterized by ponding or sheet flow.)



*"Area of Special Flood-Related Erosion Hazard"* is the land within a community that is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

*"Area of Special Flood Hazard"* is the land in the floodplain within a community subject to a one- percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

*"Base Flood"* means the flood having a one percent chance of being equalled or exceeded in any given year.

*"Basement"* means that portion of a building having its floor subgrade (below ground level) on all sides.

*"Breakaway Wall"* means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

*"Building"*, means any structure built for support, shelter, or enclosure for any occupancy or storage. (See "Structure")

*"Development"* means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of equipment or materials.

*"Elevated Building"* means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

*"Emergency Flood Insurance Program"* or *"Emergency Program"* means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

*"Erosion"* means the process of the gradual wearing away of landmasses. This peril is not per se covered under the Program.

*"Exception"* means a waiver from the provisions of this Ordinance that relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this Ordinance.

*"Existing Construction"* means any structure for which the "start of construction" commenced before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP)).

*"Existing Manufactured Home Park or Subdivision"* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP)).

*"Existing Structures"* see *"Existing Construction"*.

*"Expansion to an Existing Manufactured Home Park or Subdivision"* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

*"Flood" or "Flooding"* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters;
2. The unusual and rapid accumulation or runoff of surface waters from any source.

*"Flood Elevation Determination"* means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

*"Flood Elevation Study"* means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

*"Flood Hazard Boundary Map (FHBM)"* means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of areas of special flood hazard have been designated as Zone A.

*"Flood Insurance Rate Map (FIRM)"* means an official map of a community, issued by the Federal Emergency Management Agency, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

*"Flood Insurance Study"* is the official report provided by the Federal Emergency Management Agency, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

*"Floodplain"* or *"Flood Prone Area"* means any land area susceptible to being inundated by water from any source (see definition of "Flood or Flooding").

*"Floodplain Administrator"* - That person appointed by the City Council to administer and interpret the floodplain ordinance of the City.

*"Floodplain Management"* means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

*"Flood Protection System"* means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

*"Floodproofing"* means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

*"Flood-Related Erosion"* means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

*"Flood-Related Erosion Area"* or *"Flood-Related Erosion Prone Area"* means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

*"Flood-Related Erosion Area Management"* means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and flood plain management regulations.

*"Floodway"* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

*"Floor"* means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

*"Freeboard"* means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings and the hydrological effect of urbanization of the watershed.

*"Functionally Dependent Use"* means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

*"Highest Adjacent Grade"* means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

*"Historic Structure"* means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs certified either:
  - a. By an approved state program as determined by the Secretary of the Interior, or
  - b. Directly by the Secretary of the Interior.

*"Levee"* means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

*"Levee System"* means a flood protection system, which consists of a levee, or levees, and associated structures, such as closure, and drainage devices, which are constructed and operated in accordance with sound engineering practices.

*"Lowest Floor"* means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or

storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.

*"Manufactured Home"* means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "Manufactured Home" does not include a "Recreational Vehicle", unless such transportable structures are placed on a site for 180 consecutive days or longer.

*"Manufactured Home Park or Subdivision"* means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

*"Map"* means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Agency.

*"Mean-Sea-Level"* means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this Ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

*"National Geodetic Vertical Datum (NGVD)"* as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

*"New Construction"* means any structure for which the "start of construction" commenced after the effective date of this ordinance or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

*"New Manufactured Home Park or Subdivision"* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed after the effective date of this ordinance or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

*"North American Vertical Datum (NAVD)"* as corrected in 1988 is a vertical control used as a reference for establishing varying elevations within the floodplain.

*"100-Year Flood"* see *"Base Flood"*.

*"Person"* includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

*"Recreational Vehicle"* means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

*"Regulatory Floodway"* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

*"Riverine"* means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

*"Special Hazard Area"* means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

*"Start of Construction"* includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. (Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

*"State Coordinating Agency"* The Tennessee Department of Economic and Community Development's, Local Planning Assistance Office as designated by the Governor of the State of Tennessee at the request of the Administrator to assist in the implementation of the National Flood Insurance Program for the state.

*"Structure"*, for purposes of this section, means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

*"Substantial Damage"* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

*"Substantial Improvement"* means any repairs, reconstruction's, rehabilitation's, additions, alterations or other improvements to a structure, taking place during a 5-year period, in which the cumulative cost equals or exceeds fifty percent of the market value of the structure before the "start of construction" of the improvement. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed.

For the purpose of this definition, "Substantial Improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project or; (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

*"Substantially Improved Existing Manufactured Home Parks or Subdivisions"* is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

*"Variance"* is a grant of relief from the requirements of this Ordinance which permits construction in a manner otherwise prohibited by this Ordinance where specific enforcement would result in unnecessary hardship.

*"Violation"* means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this Ordinance is presumed to be in violation until such time as that documentation is provided.

*"Watercourse"* – Any natural or man-made or rechanneled perennially or intermittent flowing waterway including lakes, ponds, rivers, wetlands, swamps, creeks, streams, brooks, branches, tributaries, and including all "blue-line" streams that carries stormwater and flood waters from a source to the receiving water body.

*"Water Surface Elevation"* means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 or the National Vertical Data (NAVD) 1988 (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas

10.03.050      General Provisions

- A. Application - This Chapter shall apply to all areas within the planning region, including the corporate limits of Gallatin, Tennessee.
- B. Basis for Establishing the Areas of Special Flood Hazard – The Areas of Special Flood Hazard identified on the Gallatin, Tennessee, Federal Emergency Management Agency, Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panels 0293G, 0295G, 0311G, 0312G, 0313G including amendment approved July 18, 2013, 0314G, 0316G, 0317G, 0318G, 0319G, 0340G, 0406G, 0407G, 0408G, 0409G, 0426G, 0427G, 0428G, 0429G, 0431G, 0432G, 0433G, and 0434G dated April 17, 2012, and Map Index IND0C and any subsequent amendments or revisions, along with all supporting technical data, are adopted by reference and declared to be a part of this Ordinance.
- C. Requirement for Development Permit - A development permit shall be required in conformity with this Chapter prior to the commencement of any development activity.
- D. Compliance - No structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations.
- E. Abrogation and Greater Restrictions - This Ordinance is not intended to repeal, abrogate, or impair any existing easement, covenant, or deed restriction. However, where this Ordinance conflicts or overlaps with another, whichever imposes the more stringent restrictions shall prevail.
- F. Interpretation - In the interpretation and application of this Ordinance, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body, and; (3) deemed neither to limit nor repeal any other powers granted under state statutes.
- G. Warning and Disclaimer of Liability - The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of Gallatin, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.
- H. Penalties for Violation - Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor punishable as other misdemeanors as provided by law and/or a fine of \$50.00. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall



prevent the City of Gallatin, Tennessee, from taking such other lawful actions to prevent or remedy any violation.

10.03.060      Administration

- A. Designation of Program Administrator -The City Planner is hereby appointed to administer and implement the provisions of this Ordinance.
- B. Permit Procedures - Application for a development permit shall be made to the City Planner on forms furnished by him prior to any development activity. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities. Specifically, the following information is required:

1. Application Stage

- (a) Elevation in relation to mean-sea-level of the proposed lowest floor, including basement, of all buildings where Base Flood Elevations (BFE's) are available, or to the highest adjacent grade when applicable under this Ordinance.
- (b) Elevation in relation to mean-sea-level to which any non-residential building will be flood-proofed where BFE's are available, or to the highest adjacent grade when applicable under this Ordinance.
- (c) Design certificate from a registered professional engineer or architect that the proposed non-residential flood-proofed building will meet the flood-proofing criteria in Section 10.03.060.B.
- (d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- (e) Submission of surety for completion of work in a form approved by the City Attorney and in an amount based on the cost of development as determined by the City Engineer utilizing the current issue of the R.S. Means Site Work Cost Data.

2. Construction Stage

Within unnumbered A zones, where flood elevation data are not available, the City Planner shall record the elevation of the lowest floor on the development permit. The elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

For all new construction and substantial improvements, the permit holder shall provide to the City Planner an as-built certification of the regulatory floor elevation or flood-proofing level upon the completion of the lowest floor or flood-proofing. Within unnumbered A zones, where flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

Any lowest floor certification made relative to mean-sea-level shall be prepared by or under the direct supervision of, a registered land surveyor and certified by same. When flood-proofing is utilized for a non-residential building said certification shall be prepared by or under the direct supervision of, a professional engineer or architect and certified by same.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

C. Duties and Responsibilities of the City Planner - Duties of the City Planner shall include, but not be limited to:

1. Review of all development permits to assure that the requirements of this Ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.
2. Advise permitter that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit. This shall include Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
3. Notification to adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Office, prior to any alteration or relocation of a watercourse, and submission of evidence of such notification to the Federal Emergency Management Agency.
4. For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the Federal Emergency Management Agency to ensure accuracy of community flood maps through the Letter of Map Revision process. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.
5. Record the elevation, in relation to mean-sea-level or the highest adjacent grade, where applicable of the lowest floor including basement of all new or substantially improved buildings, in accordance with Section 10.03.060.B.
6. Record the actual elevation; in relation to mean-sea-level or the highest adjacent grade, where applicable to which the new or substantially improved buildings have been flood-proofed, in accordance with Section 10.03.060.B.
7. When flood proofing is utilized for a structure, the City Planner shall obtain certification of design criteria from a registered professional engineer or architect, in accordance with Section 10.03.060.B.
8. Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the City Planner shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.

9. When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency then the City Planner shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the Community FIRM meet the requirements of this Ordinance.

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the City Planner shall require the lowest floor of a building to be elevated or flood-proofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Section 10.03.041 of this Ordinance). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in Section 10.03.060.B.

10. All records pertaining to the provisions of this Ordinance shall be maintained in the office of the City Planner and shall be open for public inspection. Permits issued under the provisions of this Ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files.

#### 10.03.070 Provisions for Flood Hazard Reduction

##### A. General Standards - In all flood prone areas the following provisions are required:

1. New construction and substantial improvements to existing buildings shall be anchored to prevent flotation, collapse or lateral movement of the structure;
2. Manufactured homes shall be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
3. New construction and substantial improvements to existing buildings shall be constructed with materials and utility equipment resistant to flood damage;
4. New construction or substantial improvements to existing buildings shall be constructed by methods and practices that minimize flood damage;
5. All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
9. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this Ordinance, shall meet the requirements of "new construction" as contained in this Ordinance; and,

10. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this Ordinance, shall be undertaken only if said non-conformity is not further extended or replaced.

B. Specific Standards - These provisions shall apply to all areas of special flood hazard as provided herein:

1. Residential Construction. Where base flood elevation data is available, new construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than one (1) foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls and to ensure unimpeded movement of floodwater shall be provided in accordance with the standards of Section 10.03.060.B.

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the Administrator shall require the lowest floor of a building to be elevated or flood-proofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Section 10.03.041 of this Article). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in Section 10.03.060.B.

2. Non-Residential Construction. New construction or substantial improvement of any commercial, industrial, or non-residential building, when BFE data is available, shall have the lowest floor, including basement, elevated or flood-proofed no lower than one (1) foot above the level of the base flood elevation.

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the Administrator shall require the lowest floor of a building to be elevated or flood-proofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Section 10.03.041 of this Article). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in Section 10.03.060.B.

Buildings located in all A-zones may be flood-proofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Administrator as set forth in Section 10.03.060.B.

3. Elevated Building. All new construction or substantial improvements to existing buildings that include ANY fully enclosed areas formed by foundation and other exterior

walls below the base flood elevation, or required height above the highest adjacent grade, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

- (a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria.
  - 1) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
  - 2) The bottom of all openings shall be no higher than one foot above the finish grade; and
  - 3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- (b) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the elevated living area (stairway or elevator); and
- (c) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms in such a way as to impede the movement of floodwaters and all such petitions shall comply with the provisions of Section 10.03.070.B. of this Ordinance.

#### 4. Standards for Manufactured Homes and Recreational Vehicles

- (a) All manufactured homes placed, or substantially improved, on: (1) individual lots or parcels, (2) in expansions to existing manufactured home parks or subdivisions, or (3) in new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction, including elevations and anchoring.
- (b) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
  - 1) When base flood elevations are available the lowest floor of the manufactured home is elevated on a permanent foundation no lower than one (1) foot above the level of the base flood elevation; or,
  - 2) Absent base flood elevations the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements) at least three (3) feet in height above the highest adjacent grade.
- (c) Any manufactured home, which has incurred “substantial damage” as the result of a flood or that has substantially improved, must meet the standards of Section 10.03.070.B of this Ordinance.
- (d) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(e) All recreational vehicles placed on identified flood hazard sites must either:

- 1) Be on the site for fewer than 180 consecutive days;
- 2) Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions.
- 3) The recreational vehicle must meet all the requirements for new construction, including the anchoring and elevation requirements of this section above if on the site for longer than 180 consecutive days.

5. Standards for Subdivisions – Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood prone area, any such proposals shall be reviewed to ensure that:

- (a) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (d) Base flood elevation data shall be provided for all subdivision proposals and other proposed developments (including manufactured home parks and subdivisions) that are greater than fifty lots or five acres in area.
- (e) Within all districts, the total gross acreage of a site shall be reduced by an amount equal to the number of acres lying within the 100 year floodplain (as identified by FEMA maps), when calculating for the available density or total number of units possible. If the proposal minimizes disturbance to the floodplain through the elimination of fill and/or disturbance of these areas, the reduction of total gross site acreage due to floodplain shall be reduced by fifty percent (50%). All other applicable regulations shall be required of the proposal.

C. Standards for Areas of Special Flood Hazard with Established Base Flood Elevations and with Floodways Designated:

Located within the Areas of Special Flood Hazard established in Section 10.03.050.B, are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

1. Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other developments within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development, when combined with all other existing and anticipated development, shall not result in ANY increase the water surface elevation of the base flood level, velocities or floodway widths during the occurrence of a base flood discharge at any point within the community. A registered professional engineer must provide supporting technical data and certification thereof.
2. New construction or substantial improvements of buildings shall comply with all applicable flood hazard reduction provisions of Sections 10.03.070.

D. Standards for Areas of Special Flood Hazard Zones AE with Established Base Flood Elevations but Without Floodways Designated

Located within the Areas of Special Flood Hazard established in Section 10.03.050.B, where streams exist with base flood data provided but where no floodways have been designated, (Zones AE) the following provisions apply:

1. No encroachments, including fill material, new structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
2. New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with Section 10.03.070.B.

E. Standards for Streams Without Established Base Flood Elevations or Floodways (A Zones)

Located within the Areas of Special Flood Hazard established in Section 10.03.050.B, where streams exist, but no base flood data has been provided (A Zones), OR where a Floodway has not been delineated, the following provisions shall apply:

1. When base flood elevation data or floodway data have not been provided in accordance with Section 1-3, then the Administrator shall obtain, review and reasonably utilize any scientific or historic base flood elevation and floodway data available from a Federal, State or other source, in order to administer the provisions of Section 10.03.070 ONLY if data is not available from these sources, then the following provisions (2 & 3) shall apply:
2. No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet, whichever is greater, measured from the top of the stream bank, unless certification by registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined

with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

3. In special flood hazard areas without base flood elevation data, new construction or substantial improvements of existing shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three (3) feet above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 10.03.070.B and "Elevated Buildings".

#### F. Standards For Areas of Shallow Flooding (AO and AH Zones)

Located within the Areas of Special Flood Hazard established in Section 10.03.050.B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1'-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

1. All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one (1) foot above the flood depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated, at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of Section 10.03.070.B, and "Elevated Buildings".
2. All new construction and substantial improvements of nonresidential buildings may be flood-proofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be flood-proofed and designed watertight to be completely flood-proofed to at least one (1) foot above the specified FIRM flood level, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified, the lowest floor, including basement, shall be flood-proofed to at least three (3) feet above the highest adjacent grade. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance and shall provide such certification to the Administrator as set forth above and as required in Section 10.03.060.B.
3. Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.
4. The Administrator shall certify the elevation or the highest adjacent grade, where applicable, and the record shall become a permanent part of the permit file.

#### G. Standards for Areas Protected by Flood Protection System (A-99 Zones)



Located within the areas of special flood hazard established in Section 1-3 are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations and flood hazard factors have not been determined. Within these areas (A-99 Zones) all provisions of Section 10.03.060 and Section 10.03.070 A. shall apply.

#### H. Standards for Unmapped Streams

Located within Gallatin, Tennessee are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams the following provisions shall apply:

1. In areas adjacent to such unmapped streams, no encroachments including fill material or structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the locality.
2. When new elevation data is available, new construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with Section 10.03.060.

#### 10.03.080 Variance Procedures

The provisions of this section shall apply exclusively to areas of special flood hazard.

##### A. Board of Zoning Appeals

1. The Gallatin Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Section.
2. Variances may be issued for the repair or rehabilitation of historic structures (see definition) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.
3. In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and:
  - (a) The danger that materials may be swept onto other property to the injury of others;
  - (b) The danger to life and property due to flooding or erosion;
  - (c) The susceptibility of the proposed facility and its contents to flood damage;
  - (d) The importance of the services provided by the proposed facility to the community;
  - (e) The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
  - (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

- (g) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - (h) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (i) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site, and;
  - (j) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- 4. Upon consideration of the factors listed above, and the purposes of this Ordinance, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to effectuate the purposes of this Ordinance.
  - 5. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

#### B. Conditions for Variances

- 1. Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum relief necessary so as not to destroy the historic character and design of the building.
- 2. Variances shall only be issued upon (a) a showing of good and sufficient cause, (b) a determination that failure to grant the variance would result in exceptional hardship; and (c) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- 3. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property.
- 4. The City Planner shall maintain the records of all appeal actions and report the granting of any variances to the Federal Emergency Management Agency upon request.

## **10.04      Airport Overlay (AO) Zoning District Regulations**

### **10.04.05      Short Title**

This Ordinance shall also be known as and may also be cited as the Sumner County Regional Airport Zoning Ordinance

### **10.04.010      Purpose**

The purpose of this Ordinance is to regulate and restrict the height of structures and objects of natural growth, and otherwise regulate the use of property, in the vicinity of the Sumner County Regional Airport; to designate the Boards of Zoning Appeals to hear appeals; to provide for enforcement and penalties; to define certain terms used herein; and to amend the City of Gallatin Zoning Map to create the Sumner County Regional Airport Zoning Map and establish the boundaries of Airport Zoning districts.

### **10.04.020      Statutory Authorization, Findings of Fact, and Objectives**

This ordinance is adopted pursuant to the authority conferred by Title 42 of the Tennessee Code Annotated. It is hereby found that an obstruction has the potential for endangering the lives and property of users of the Sumner County Regional Airport, and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of the Sumner County Regional Airport; and that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Sumner County Regional Airport and the public investment therein. Accordingly, it is hereby declared that:

- A. the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by the Sumner County Regional Airport;
- B. it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and
- C. the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of police power without compensation.

It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

10.04.030      Recommendation and Certification of Airport Zoning Ordinance

- A. The Sumner County Regional Airport Authority recommended approval of this Ordinance on April 28, 2008 and recommended its adoption by the City of Gallatin, Sumner County and Wilson County to be incorporated into their respective zoning ordinances.
- B. The Tennessee Department of Transportation, Division of Aeronautics, has certified the Airport Zoning Regulations pursuant to TCA §42-6-105.

10.04.040      Definitions

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted as to give them the meaning they have in context or common usage, and to give this Ordinance the most reasonable application given its stated purpose and objectives:

- A. *Airport* – Means Sumner County Regional Airport.
- B. *Airport Elevation* - 584 feet above mean sea level.
- C. *Airport Manager* – Airport Manager for the Sumner County Regional Airport
- D. *Airport Zoning Map* - The Sumner County Regional Airport – Part 77 Airport Airspace Drawing-Plan, approved by the Tennessee Department of Transportation, Division of Aeronautics on November 13, 2009, is adopted by reference by this Ordinance and incorporated as part of the Official Zoning Map of the City of Gallatin, Tennessee.
- E. *Approach Surface* - A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 10.04.060 of this Ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.
- F. *Approach, Transitional, Horizontal, and Conical Zones* – These zones are set forth in Section 10.04.050 of this Ordinance.
- G. *Board of Zoning Appeals* – A Board consisting of 5 members, appointed by the Board of Mayor and Aldermen of the City of Gallatin as provided in Article 15.00, Section 15.04 of the Gallatin Zoning Ordinance.
- H. *Conical Surface* - A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
- I. *Hazard to Air Navigation* - An obstruction determined to have a substantial adverse affect on the safe and efficient utilization of the navigable airspace.

- J. *Height* - For the purpose of determining the height limits in all zones set forth in the Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
- K. *Horizontal Surface* - A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.
- L. *Larger than Utility Runway* - A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.
- M. *Non-conforming Use* - Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Ordinance or an amendment thereto.
- N. *Non-precision Instrument Runway* - A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.
- O. *Obstruction* - Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 10.04.060 of this Ordinance.
- P. *Person* - An individual, firm, partnership, corporation, company, association, joint stock association, or government entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.
- Q. *Precision Instrument Runway* - A runway, having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.
- R. *Primary Surface* – A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of the runway. The width of the primary surface is set forth in Section 10.04.050 of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
- S. *Runway* – A defined area on an airport prepared for landing and take-off of aircraft along its length.
- T. *Structure* – An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestack, earth formation, and overhead transmission lines.

- U. *Transitional Surfaces* - These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.
- V. *Tree* – Any object of natural growth.
- W. *Utility Runway* – A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.
- X. *Visual Runway* – A runway intended solely for the operation of aircraft using visual approach procedures.

#### 10.04.050      Airport Zones

In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Sumner County Regional Airport. Such zones are identified on the Part 77 Airport Airspace Drawing-Plan in the Sumner County Regional Airport Layout Plan, prepared by the Sumner County Regional Airport Authority and approved by the Tennessee Department of Transportation, Division of Aeronautics on November 13, 2009. The following Airport Zones, shown on the aforementioned Airspace Drawing-Plan, are hereby defined and adopted by reference and declared to be a part of these Airport Zoning Regulations and designated as the Airport Zoning Map and shall be incorporated as part of the Official Zoning Map of the City of Gallatin, Tennessee. An area which is located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation.

- A. Runway Larger than Utility With A Visibility Minimum Greater Than  $\frac{3}{4}$  Mile Non-precision Instrument Approach Zone – The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- B. Runway Larger than Utility with A Visibility Minimum as Low As  $\frac{3}{4}$  Mile Non-precision Instrument Approach Zone – The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- C. Transitional Zones – The transitional zones are the areas beneath the transitional surfaces.

- D. Horizontal Zone – The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designated utility or visual and 10,000 feet for all others from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
- E. Conical Zone – The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of 4,000 feet.

10.04.060      Airport Zone Height Limitations

Except as otherwise provided in this Ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Ordinance to a height in excess of the applicable height herein established for such zone. Such applicable height limitations are hereby established for each of the zones as follows:

- A. Runway Larger than Utility With A Visibility Minimum Greater than  $\frac{3}{4}$  Mile Non-precision Instrument Approach Zone – Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
- B. Transitional Zones – Slope seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 584 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.
- C. Horizontal Zone – Established at 150 feet above the airport elevation or at a height of 734 feet above mean sea level.
- D. Conical Zone – Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
- E. Excepted Height Limitations – Nothing in this Ordinance shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 50 feet above the surface of the land.

10.04.070      Use Restriction

Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as to create electrical interference with navigational signals or radio communication between airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

#### 10.04.080      Nonconforming Uses

- A. Regulations Not Retroactive – The regulations prescribed in the Ordinance shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as the effective date of this Ordinance, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance, and is diligently prosecuted.
- B. Marking and Lighting – Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Airport Manager to indicate to the operators of aircraft in the vicinity of the airport, the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the Sumner County Regional Airport Authority.

#### 10.04.090      Permits

- A. Future Uses – Except as specifically provided in 1, 2, and 3 hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefore shall have been applied for and granted by the Zoning Administrator for the City of Gallatin. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for use inconsistent with the provisions of this Ordinance shall be granted unless a variance has been approved in accordance with Section 10.04.090.D. Prior to the issuance of a permit, the Zoning Administrator may request that the permit applicant provide verification from the Federal Aviation Administration as to the effect of the requested permit or proposed construction on the operation of air navigation facilities and the safe, efficient use of navigable airspace. The Zoning Administrator may also consult with the Airport Manager for advice as to the aeronautical and operational effects of the permit application.



1. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limit prescribed for such zones.
  2. In areas lying within the limits of the approach zones but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.
  3. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.
  4. Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by the Ordinance except as set forth in Section 10.04.060.E.
- B. Existing Uses – No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation, than it was on the effective date of this Ordinance or any amendments thereto or than it is when the application for a permit is made. Except as indicated all applications for such a permit shall be granted.
- C. Nonconforming Uses Abandoned or Destroyed – Whenever the City of Gallatin Zoning Administrator determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.
- D. Variances – Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this Ordinance, may apply to the City of Gallatin Board of Zoning Appeals for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of the Ordinance. Additionally, no application for variance to the requirements of this Ordinance may be considered by the Board of Zoning Appeals unless a copy of the

application has been furnished to the Airport Manager for advice as to the aeronautical effects of the variance. If the Airport Manager does not respond to the application within 15 days after receipt, the Board of Zoning Appeals may act on its own to grant or deny said application.

- E. Obstruction Marking and Lighting – Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Zoning Appeals, this condition may be modified to require the owner to permit the Airport Authority, at its own expense, to install, operate, and maintain the necessary markings and lights.

#### 10.04.100      Enforcement

It shall be the duty of the Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Zoning Administrator upon a form published for that purpose. Applications required by this Ordinance to be submitted to the Zoning Administrator shall be promptly considered and granted or denied. Application for action by the Board of Zoning Appeals shall be forthwith transmitted by the Zoning Administrator.

#### 10.04.110      Board of Zoning Appeals

The Board of Zoning Appeals is hereby designated to hear appeals from airport zoning ordinances created under this section pursuant to TCA §42-6-108.

- A. Any person aggrieved, or any taxpayer affected, by any decision of the Zoning Administrator, made in the administration of Section 10.04 of this Ordinance, may appeal to the Board of Zoning Appeals pursuant to the provisions of Section 15.04 of the Gallatin Zoning Ordinance.
- B. The Board of Zoning Appeals shall be authorized to consider variances from the Airport Zoning Regulations pursuant to Section 10.04.090 of the Gallatin Zoning Ordinance.
- C. An appeal shall stay all proceeding in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Zoning Appeals, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would in the opinion of the Zoning Administrator cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Board of Zoning Appeals or notice to the Zoning Administrator and on due cause shown.
- D. The Board of Zoning Appeals may, in conformity with the provisions of this Ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination as may be appropriate under the circumstances.

10.04.120     Judicial Review

Any person or agency of the city government may appeal to a court of competent jurisdiction a decision of the Board of Zoning Appeals as provided under statutes of the State of Tennessee.

10.04.130     Penalties

Penalties for Violation of this Ordinance shall be pursuant to Section 15.08.020, Penalties for Violation, of the Gallatin Zoning Ordinance.

10.04.140     Conflicting Regulations

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

10.04.150     Severability

If any of the provisions of this Ordinance or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or application of the Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of the Ordinance are declared to be severable.

10.04.160     Effective Date

Whereas, the immediate operation of the provisions of this Ordinance is necessary for the preservation of the public health, public safety, and general welfare, and this Ordinance shall be in full force and effect from and after its passage by the Board of Mayor and Alderman and publication and posting as required by law. Adopted by the City of Gallatin on April 21, 2009.

## ARTICLE 10.00 AMENDMENTS

<b>Section</b>	<b>Ordinance #</b>	<b>Date</b>
10.03 (Entirety)	O0609-063	09/19/06
10.03.050.B	O0808-53	09/16/08
10.01	O0802-16	04/21/09
Add Section 10.04	O0802-16	04/21/09
10.03.050.B	O0903-30	05/05/09
10.02.030.D.1	O0911-83	01/19/10
10.02.030.D.2	O0911-83	01/19/10
10.02.030.D.4	O0911-83	01/19/10
10.03.060.B.1.(e)	O1003-24	05/04/10
10.04.040.D	O1102-14	04/19/11
10.04.050	O1102-14	04/19/11
Various Sections	O1702-14	03/21/17